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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 08/863,113      | 05/27/97    | GOINEAU              | 1974                |

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QM61/0527

EXAMINER  
WORRELL JR., L.

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3741     |              |

DATE MAILED: 05/27/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/863,113

Applicant(s)

Golneau et al.

Examiner

Worrell

Group Art Unit

3741

☒ Responsive to communication(s) filed on Mar 2, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 3-10 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 3-10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 10 is objected to because of the following informalities: The term “ration” should be “ratio”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 3-6, 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The added material which is not described in the specification as originally filed is as follows: As recited in new claim 9, “single ply” yarn and “without further processing”.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is inaccurate since the yarn is not pretensioned twice.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goineau(5172459).

Goineau(5172459) teaches the invention as claimed including providing a bobbin of polyester POY multi-filament synthetic yarn(20, 26, 24), supplying said yarn to a heater(32), drawing said yarn in a draw zone with a draw ratio in the range of 1.8-2.3(column 2, lines 24-27) as it passes over the heater to fully orient the yarn and taking up the fully oriented yarn(42). However, Goineau(5172459) teaches a multiply yarn and provides further processing via air texturing instead of a "single ply" and "without further processing". It would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the process of Goineau(5172459) with a single ply yarn material rather than a

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multiply yarn material so that a single ply POY can be drawn and fully oriented as shown by Goineau(5172459). Additionally, it would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the oriented yarn directly to a take up roll in order to provide a nontextured fully oriented yarn rather than a textured yarn. Re claim 5, note the draw relaxing zone between rollers 34 and 41.

8. Claims 3, 4 and 6-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goineau(5172459) in view of Gorrafa.

As indicated in the rejection to claim 2 above, Goineau(5172459) teaches the invention substantially as claimed including providing a 34 filament, 150 denier POY yarn. However Goineau(5172459) discloses a heater draw temperature of 140°C instead of about 210°C as claimed. Gorrafa teaches a drawing process for polyester yarns in which the temperature is 210°C as shown in Table 1 of Gorrafa. It would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the heating of the yarn of Goineau(5172459) to about 210°C in order to bring about the optimal fully drawn yarn characteristics as shown by Gorrafa. Additionally, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Re claim 4 and the pre-tensioning, note in the draw block of Goineau(5172459) the initial drawing provides a pre-tension before the second draw section. See column 2, lines 20-27. Re claim 7 and the yarn size of 255 denier, it would have been obvious at

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the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the yarn size as 255 denier since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Concerning the specific draw ratio of 2.093, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the 1.9 draw ratio of Goineau(5172459) as 2.093, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Clearly draw ratio is a result effective variable as shown by example throughout the disclosure of Gorrafa. Re claim 10 and the specific pretensioning draw ratio of 1.01, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the 1.01 draw ratio in the pretension drawing of Goineau(5172459), since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Response to Arguments***

9. Applicant's arguments filed 3/2/98 have been fully considered but they are not persuasive. Applicant argues that Goineau or Goineau in view of Gorrafa are not directed to a single ply yarn. The examiner agrees. However, "single ply" does not find support in the application as originally filed as set forth above in the 112, 1st paragraph rejection. Regarding applicant's argument that

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Goineau does not show pretensioning, the examiner disagrees. Goineau(5172459) provides two stages of drawing of which one would be considered pretensioning. See column 2, lines 20-27. Note that Goineau refers to his own U.S. 4,736,500 for details involving the two stage drawing process.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danny Worrell whose telephone number is (703) 308-0889. Messages placed on voice mail will be returned by the end of my next business day.

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The fax phone number for this Group is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

LDW  
May 19, 1998

  
C. D. CROWDER  
SUPERVISORY PATENT EXAMINER  
GROUP 3400